Supreme Court, U.S.
FILED
DEC 3 - 2004
OFFICE OF THE CLERK

No. 03-1388

IN THE

Supreme Court of the United States

Douglas Spector, *et al.*,
Petitioners,

v.

Norwegian Cruise Line Ltd.

On Writ of Certiorari
to the United States Court of Appeals
for the Fifth Circuit

JOINT APPENDIX

Thomas H. Wilson
(*Counsel of Record*)
VINSON & ELKINS L.L.P.
2300 First City Tower
1001 Fannin Street
Houston, TX 77002
(713) 758-2042

Attorneys for Respondent

Thomas C. Goldstein
(*Counsel of Record*)
GOLDSTEIN & HOWE, P.C.
4607 Asbury Place, N.W.
Washington, DC 20016
(202) 237-7543

Attorneys for Petitioners

PETITION FOR CERTIORARI FILED APRIL 1, 2004
PETITION FOR CERTIORARI GRANTED SEPTEMBER 28, 2004

TABLE OF CONTENTS

Court of Appeals Docket Entries.....1
District Court Docket Entries.....4
Complaint.....8
Norwegian Cruise Line Passenger Ticket Contract, attached as Exhibit H to Defendant Norwegian Cruise Line's Motion to Stay or Abate This Lawsuit (filed in No. 2000-39257, *Spector et al.* v. *Norwegian Cruise Line Ltd. et al.* (Dist. Ct. Harris Cty., Tex.), attached in turn as Exhibit A to Plaintiffs' Response to Defendant's Motion to Dismiss (filed in No. H-00-2649, *Spector et al.* v. *Norwegian Cruise Line* (S.D. Tex.).....18

U.S. Court of Appeals for the Fifth Circuit

CIVIL DOCKET FOR
02-21154 Spector, et al v. Norwegian Cruise

DOUGLAS SPECTOR; ANA SPECTOR; JULIA HOLLENBECK, Individually, and on behalf of all similarly situated persons; DAVID T KILLOUGH, Individually and on behalf of all similarly situated persons; RODGER PETERS, Individually and on behalf of all similarly situated persons

Plaintiffs - Appellants

v.

NORWEGIAN CRUISE LINE LIMITED, doing business as Norwegian Cruise Line

Defendant - Appellee

Case No. 03-20056

DOUGLAS SPECTOR; ANA SPECTOR; JULIA HOLLENBECK, individually, and on behalf of all similarly situated persons; DAVID T KILLOUGH, Individually and on Behalf of All Similarly Situated Persons; RODGER PETERS, Individually and on Behalf of All Similarly Situated Persons

Plaintiffs - Appellees

v.

NORWEGIAN CRUISE LINE LTD, doing business as Norwegian Cruise Line

Defendant - Appellant

10/22/02	Civil rights case docketed. NOA filed by Appellant Douglas Spector, Appellant Ana Spector, Appellant Julia Hollenbeck, Appellant David T Killough, Appellant Rodger Peters. [02-21154] (cmb) [02-21154]

2/3/03	CLERK Order filed granting joint motion to consolidate case [4095742-1] in 02-21154, granting joint motion to consolidate case [4095764-1] in 03-20056 Copies to all counsel. [02-21154, 03-20056] (jtr) [02-21154 03-20056]
6/2/03	Amicus curiae brief filed by Amicus Curiae USA in 02-21154, Amicus Curiae USA in 03-20056, Amicus Curiae USA in 03-20056. Consent included in brief? [Y/NA] NA Copies of Brief: 6 # of pages: 27 Word count: 6,909 Date of COS: 4/3/03 Disk Provided [Y/N]: y Sufficient [Y/N]: n NEEDS 1 ADDITIONAL COPY. [4209879-1] [02-21154, 03-20056] Sufficient Brief due on 6/16/03 for USA in 02-21154, for USA in 03-20056. (ddv) [02-21154 03-20056]
1/12/04	Opinion filed. Issd in T form? Y Mandate pull date is 2/2/04 in 02-21154, in 03-20056. [02-21154, 03-20056] (rmf) [02-21154 03-20056]
1/12/04	Judgment entered and filed. [02-21154] (rmf) [02-21154]
1/12/04	Judgment entered and filed. [03-20056] (rmf)
1/26/04	Petition filed by Appellant Doug Spector in 02-21154, Appellant Ana Spector in 02-21154, Appellant Julia Hollenbeck in 02-21154, Appellant David T Killough in 02-21154, Appellant Rodger Peters in 02-21154, Appellee Douglas Spector in 03-20056, Appellee Ana Spector in 03-20056, Appellee

	Julia Hollenbeck in 03-20056, Appellee David T Killough in 03-20056, Appellee Rodger Peters in 03-20056 for rehearing en banc. # of copies filed: 20 [4731185-1] Mandate pull date canceled. Date of COS: 1/23/04 Sufficient [Y/N]: Y [02-21154, 03-20056] (jtr) [02-21154 03-20056]
2/10/04	COURT Order filed denying petition for rehearing en banc [4731185-1] With poll (Y/N)?: N Mandate pull date is 2/17/04 in 02-21154, in 03-20056. Copies to all counsel. [02-21154, 03-20056] (rjd) [02-21154 03-20056]
2/18/04	Mandate issued. Approved BOC Issued (Y/N)?: y [02-21154, 03-20056] Mandate pull date satisfied. (jca) [02-21154 03-20056]
4/13/04	Supreme Court notice that petition for certiorari was filed on 04/01/04 by Appellant Doug Spector in 02-21154, Appellant Ana Spector in 02-21154, Appellant Julia Hollenbeck in 02-21154, Appellant David T Killough in 02-21154, Appellant Rodger Peters in 02-21154, Appellee Douglas Spector in 03-20056, Appellee Ana Spector in 03-20056, Appellee Julia Hollenbeck in 03-20056, Appellee David T Killough in 03-20056, Appellee Rodger Peters in 03-20056. Supct No.: 03-1388 [02-21154, 03-20056] (lgl) [02-21154 03-20056]

U.S. District Court for the Northern District of Texas
CIVIL ACTION NO. H-00-2649
Spector et al. v. Norwegian Cruise Line Ltd.

08/01/2000	1	COMPLAINT by Douglas Spector, Ana Spector, Julia Hollenbeck filed; FILING FEE $ 150.00 RECEIPT # 502560 (psmith) (Entered: 08/03/2000)
09/05/2000	4	FIRST AMENDED COMPLAINT by Pltfs Douglas Spector, Ana Spector and Julia Hollenbeck ,(Answer due 9/15/00 for Norwegian Cruise) amending [1-1] complaint; no new ptys added, filed. (fmremp) (Entered: 09/06/2000)
11/06/2000	5	Deft's MOTION to stay Discovery, Initial Disclosures, the Entry of a Scheduling Order, and Consideration of Class Certification Issues by Norwegian Cruise, Motion Docket Date 11/26/00 [5-1] motion , filed. (fmremp) (Entered: 11/07/2000)
11/06/2000	6	MOTION to dismiss by Deft Norwegian Cruise, Motion Docket Date 11/26/00 [6-1] motion , filed. (fmremp) (Entered: 11/07/2000)
11/21/2000	9	INITIAL RESPONSE by Pltfs Douglas Spector, Ana Spector, David T Killough, Rodger Peters and Julia Hollenbeck to [5-1] Motion to Stay, filed (fmremp) (Entered: 11/21/2000)

11/22/2000 to	11	ORDER granting Deft's [5-1] motion stay Discovery, Initial Disclosures, the Entry of a Scheduling Order, and Consideration of Class Certification Issues terminated deadlines , entered; Parties notified. (signed by Judge John D. Rainey) (fmremp) (Entered: 11/24/2000)
12/04/2000	13	MEMORANDUM OF LAW As Amicus Curiae in Support of Pltf's Opposition to Deft Norwegian Cruise Line's Motion to Dismiss by USA, filed. (fmremp) (Entered: 12/05/2000)
12/04/2000	14	RESPONSE by Douglas Spector, Ana Spector, Julia Hollenbeck, David T Killough, Rodger Peters to [6-1] motion to dismiss filed. (fmremp) (Entered: 12/05/2000)
01/09/2001	19	REPLY by Deft Norwegian Cruise Line's Pltfs' Response to the [6-1] motion to dismiss and to The United States' Memorandum of Law as Amicus Curiae in support of Pltfs' Response, filed (placed in brown expandable folder) (fmremp) (Entered: 01/10/2001)
09/09/2002	32	ORDER denying [29-1] motion for referral to Magistrate Johnson; granting [27-1] motion to extend time to respond to pltfs motion to lift the stay of discovery; granting [26-1] motion to lift stay; the Court VACATES its Order staying discovery; in a Memorandum

		and Order signed this date, the Court denied the dft's motion to dismiss , entered; Parties notified. (signed Judge John D. Rainey) (lmunoz) (Entered: 09/10/2002)
09/09/2002	33	MEMORANDUM AND ORDER granting in part, denying in part dft's [6-1] motion to dismiss; the Court dismisses the plfts' claims seeking removal of physical barriers on NCL's cruise ships; the Court DENIES NCL's motion to dismiss the plfts' remaining claims , entered. Parties notified. (signed Judge John D. Rainey) (lmunoz) (Entered: 09/10/2002)
09/19/2002	34	ANSWER by Norwegian Cruise to pltfs' first amended original complaint, filed. (kprice) (Entered: 09/20/2002)
10/08/2002	36	NOTICE OF APPEAL of [33-1] order by Douglas Spector, Ana Spector, Julia Hollenbeck, David T Killough, Rodger Peters , filed. Fee Status: Pd Receipt #: 525072 (bdaniel) (Entered: 10/11/2002)
01/21/2003	45	ORDER OF USCA (certified copy) Jan 15,2003 GRANTING leave to appeal from the interlocutory order of the United States District Court, entered on Nov 26, 2002, Re: [36-1] appeal , filed. CCA No. 02-48 (bdaniel) (Entered: 01/24/2003)

02/20/2004	48	JUDGMENT OF USCA (certified copy) Feb 12, 2004 issued as mandate on Feb 18, 2004 REMANDING and AFFIRMING in Part and REVERSING in Part, the Judgment of the District Court Re: [36-1] appeal , filed. CCA No. 02-21154 (bdaniel) (Entered: 02/20/2004)
03/19/2004	52	FINAL JUDGMENT: In accordance with the Judgment of the US Court of Appeals for the Fifth Circuit, this Court ORDERS that the Plaintiff's claims and causes of action are DISMISSED with Prejudice, entered. Parties ntfd. (signed by Judge John D. Rainey) (kwallace) (Entered: 03/19/2004)

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

DOUGLAS SPECTOR, ANA	§	
SPECTOR, JULIA	§	
HOLLENBECK, DAVID T.	§	
KILLOUGH and RODGER	§	
PETERS, Individually and on	§	CIVIL ACTION
Behalf of All Similarly	§	No. H-00-2649
Situated Persons	§	
Plaintiffs,	§	
	§	
vs.	§	
	§	
NORWEGIAN CRUISE LINE	§	
LIMITED d/b/a NORWEGIAN	§	
CRUISE LINE	§	
Defendant.	§	

PLAINTIFFS' FIRST AMENDED ORIGINAL COMPLAINT

Plaintiffs file this First Amended Original Complaint and would respectfully show the following:

I. STATEMENT OF THE CLAIM

1. The Plaintiffs, individually and on behalf of all similarly situated persons, file this class action lawsuit against Defendant, Norwegian Cruise Line d/b/a Norwegian Cruise Line ("NCL"), for injunctive and declaratory relief pursuant to the Americans with Disabilities Act of 1990, 42 U.S.C. § 12181, *et. seq.* ("ADA").

2. Plaintiffs, individually, and as representatives of all persons who are similarly situated, also seek recovery of

attorneys fees, costs and expenses necessarily expended in this action from the Defendant.

II. JURISDICTION AND VENUE

3. This Court has jurisdiction under 28 U.S.C. § 1331 and § 1343 to address Plaintiffs' ADA claims arising under 42 U.S.C. § 12181, *et. seq.* See also, 42 U.S.C. § 12188(a)(1)-(a)(2).

4. Venue is proper in the Southern District of Texas pursuant to 28 U.S.C. § 1391(b) and (c).

III. PARTIES

5. Plaintiffs, Douglas Spector, Ana Spector, Julia Hollenbeck, David T. Killough and Rodger Peters are all residents of Houston, Harris County, Texas and are *sui juris*.

6. Plaintiffs, Douglas Spector, Julia Hollenbeck, and Rodger Peters and other individuals who are similarly situated, are individuals with a physical impairments that substantially interfere with one or more of their major life activities, including walking. At all materials times, the Plaintiffs were qualified to participate in and receive the benefits of NCL's programs, services and activities. Thus, they are protected under 42 U.S.C. § 12181, *et. seq.*

7. Douglas Spector has a physical disability that requires him to utilize an electric scooter for mobility.

8. Julia Hollenbeck and Rodger Peters have physical disabilities that require them to utilize wheel chairs for mobility.

9. Ana Spector and David T. Killough are known to associate with persons with disabilities, and upon information and belief, Defendant NCL also discriminated against Ana Spector and David T. Killough due to their known association with persons with disabilities. Ana Spector and David T. Killough are both entitled to protection from discrimination based on their known association with persons with disabilities under 42 U.S.C. § 12182 (b)(1)(E).

10. NCL is believed to be incorporated under the law of the Bahamas. NCL's principal place of business at 7665 Corporate Center Drive, Miami, Florida 33126. Although NCL routinely conducts business in Houston, Harris County, Texas, it does not maintain a registered agent for service of process. Therefore, NCL will be served through the Secretary of State's office.

11. NCL is the owner, operator, lessor and/or lessee of the vessels and improvements made the basis for this action, namely the M/S Norwegian Sea ("Norwegian Sea") and the M/S Norwegian Star ("Norwegian Star"), which sailed regularly to and from the Port of Houston at times material to this suit. The Norwegian Sea and the Norwegian Star are places of public accommodation and they also house numerous places of public accommodation. Thus, NCL, the Norwegian Sea, and the Norwegian Star are all public accommodations under the ADA and cannot discriminate on the basis of disability or on the basis of a person's known association with persons with disabilities. See 42 U.S.C. 12182(a); 42 U.S.C. § 12181(7); 28 C.F.R. Pt. 36, App. B at 585; Title III Technical Assistance Manual III-1.2000(D) (1994 Supp.) (Add. 5); and 42 U.S.C. § 12182 (b)(1)(E).

12. The Norwegian Sea and the Norwegian Star are also specified public transportation services provided by a private entity that are engaged in the business of transporting people and whose operations affect commerce as defined under 42 U.S.C. § 12184(a). Thus, NCL is prohibited from discriminating against persons with disabilities such as Plaintiffs, Douglas Spector, Julia Hollenbeck, and Rodger Peters and the class of similarly situated individuals which they represent.

IV. BACKGROUND FACTS

13. At times material to this suit, the Norwegian Star routinely departed from and returned to the Port of Houston depositing and embarking with passengers. Since the Norwegian Star sailed within the waters of the United States

at times material to this suit, it is subject to the requirements of the ADA. See *Stevens v. Premier Cruises, Inc.*, 215 F.3d 1237 (11th Cir. 2000).

14. Although the Norwegian Star has approximately 800 cabins, it has approximately 4 cabins that are considered to be accessible to passengers who utilize wheel chairs or scooters for mobility. Passengers who must utilize "accessible cabins" are subjected to illegal surcharges for these accessible accommodations.

15. The Norwegian Sea routinely departs from and returns to the Port of Houston depositing and embarking with passengers on a weekly basis. Thus, the Norwegian Sea sails within the waters of the United States and is subject to the requirements of the ADA. See *Stevens v. Premier Cruises*, Inc., 215 F.3d 1237 (11th Cir. 2000).

16. Although the Norwegian Sea can transport approximately 1500-1800 passengers, it only has approximately 4 cabins that are considered to be accessible to passengers who utilize wheel chairs or scooters for mobility. Passengers who must utilize "accessible cabins" are subjected to illegal surcharges for these accessible accommodations.

17. Upon information and belief, NCL did not and has not taken steps to remove architectural barriers in its existing facilities or to offer goods and services in alternative settings even when it has been readily achievable to do so. Therefore, services, programs or benefits of these public accommodations were not available to the Plaintiffs during their September 1998, August, 1999, and September 1999 cruises and the Plaintiffs were denied full and equal benefit of the Defendant's programs, services and facilities, unless they paid additional illegal surcharges to get assistance and/or modifications from crew members.

18. Because Ana Spector and David T. Killough were traveling with persons who utilized a scooter and/or wheel chair for mobility, they were also denied access to NCL programs, services and facilities because of this association.

Like other class members who travel with spouses, friends and loved ones with mobility impairments, they were often forced to either miss programs, services and activities or leave their companions alone because they could not access the facilities and programs in motorized scooters or wheelchairs. These difficult and discriminatory choices would not have been necessary if NCL had been willing to modify its policies and procedures to insure equal access and enjoyment of the facilities to all class members in the most integrated setting possible. Upon information and belief, other class members have suffered and continue to suffer disc imination at the hands of NCL on the basis of their known association with persons with disabilities.

19. Furthermore, Douglas Spector, Julia Hollenbeck and Rodger Peters were subjected to different criteria and eligibility requirements that tend to screen out or discriminate against persons with disabilities and deny them equal benefit and enjoyment of Defendant's facilities because they utilize wheel chairs and/or motorized scooters for mobility. For example, NCL maintains evacuation equipment and programs in locations that are not accessible to persons who utilize scooters and/or wheelchairs for mobility or would not be accessible to persons who utilize scooters and wheel chairs in case of an emergency. Upon information and belief, other members of the class continue to suffer due to NCL's discriminatory practices, procedures and eligibility criteria.

20. Contrary to what the Plaintiffs were told prior to boarding the NCL public accommodations, NCL programs, services and activities were not open and equally accessible to persons with mobility impairments who utilize a wheel chair or scooter for mobility. Unbelievably, when high ranking NCL agents were confronted with passenger complaints of discriminatory treatment and proof that the ADA applied to cruise ships, NCL showed no remorse or willingness to change their discriminatory policies and procedures, or to make modifications to policies and procedures, or to remove readily achievable barriers in the future.

21. As a result of NCL's blatantly discriminatory treatment toward the Plaintiffs, and NCL's unwillingness to comply with the ADA, the named Plaintiffs were forced to retain an attorney to insure that no other individuals with disabilities and their loved ones are required to endure the severe embarrassment, emotional distress and discriminatory treatment that they endured.

V. CLASS ACTION ALLEGATIONS

22. Plaintiffs adopt by reference Paragraph 1 through 21 as though fully set forth herein.

21. Douglas Spector, Julia Hollenbeck, and Rodger Peters bring this class action pursuant to Federal Rule of Civil Procedure 23 on behalf of themselves and all current and former passengers of NCL cruises who are similarly situated, i.e., those current and former passengers with mobility impairments who utilize wheel chairs and/or scooters for mobility. Plaintiffs Ana Spector and David T. Killough also bring this class action pursuant to Federal Rule of Civil Procedure 23 for themselves and on behalf of all similarly situated persons, i.e., current and former NCL passengers who are/were denied full and equal access to all NCL services or who were discriminated against because of their known association with persons who utilize wheel chairs or scooters for mobility. To that end, the named Plaintiffs allege the following:

(a)The named Plaintiffs state that they will fairly and adequately protect the interests of the members of the class that they represent as there is no antagonism of interest between the named Plaintiffs and the conduct that is alleged on behalf of the classes as a whole. Furthermore, the named Plaintiffs have retained counsel competent and experienced in class action and complex litigation.

(b)The named Plaintiffs state that joinder of all class members is impracticable. Proceeding as a class action is a more expeditious method in this matter because the potential members of the class are so numerous.

(c)Moreover, the claims of the named Plaintiffs are typical of the claims of the members of the classes since the named Plaintiffs and class members sustained damages arising out of the same type of discriminatory conduct.

(d)NCL's conduct constitutes a pattern or practice in violation of the ADA, which is common to all members of the classes. Thus, injunctive and declaratory relief is particularly appropriate in this case.

(e)Finally, the named Plaintiffs know of no difficulty that will be encountered in the management of this litigation, which would preclude maintenance of their claims as class actions.

VI. VIOLATIONS TITLE III OF THE ADA

24. Plaintiffs re-allege Paragraphs 1 through 23 as though fully set forth herein.

25. As previously noted, Plaintiffs base their claim on Title III of the Americans with Disabilities Act ("ADA") 42 U.S.C. § 12181, *et. seq.* and its implementing regulations.

26. The Plaintiffs herein are individuals who are keenly interested in and intend to take another NCL cruise. However, in order to obtain full use and enjoyment of NCL public accommodations, Plaintiffs seek to enjoin Defendant's discriminatory conduct to prevent further harm.

27. NCL discriminated against the Plaintiffs on the basis of their disability, depriving them of the full and equal enjoyment of the services, facilities, privileges, advantages, and accommodations in the Defendant's places of public accommodation. Accordingly, Defendant's actions and omissions violated 42 U.S.C. § 12182 (a) and 42 U.S.C. § 12182(b)(1)(A)(I).

28. NCL also used standards or criteria or methods of administration that had the effect of discriminating on the basis of disability, and perpetuated such discrimination by others subject to common administrative control in violation of 42 U.S.C. § 12182(b)(1)(D).

29. NCL imposed or applied unnecessary eligibility criteria that screened out, or tended to screen out, individuals with disabilities from fully and equally enjoying the Defendant's services, facilities, privileges, advantages, or accommodations. Thus, Defendants violated 42 U.S.C. § 12182 (b)(2)(A)(i).

30. NCL failed to make reasonable modifications in policies, practices, and procedures, when such modifications were necessary to insure Defendant's services, facilities, privileges, advantages, or accommodations were available to the Plaintiffs in the most integrated setting possible. Accordingly, Defendant violated 42 U.S.C. § 12182(B)(2)(A)(ii) and 42 U.S.C. § 12182 (b)(1)(B).

31. NCL also failed to remove architectural barriers in existing facilities or offer services in alternative settings when it was readily achievable to do so. 28 C.F.R. 36.304.

32. NCL further charged the Plaintiffs higher fares than non-disabled passengers and/or allowed or required Plaintiffs to pay other illegal surcharges for accessible features and/or modifications, 42 U.S.C. § 12182(b)(2)(A)(i) and 28 C.F.R. § 36.301 (c).

33. Additionally, NCL excluded or otherwise denied equal goods, services, facilities, privileges, advantages, accommodations or other opportunities to Plaintiffs because of their known association with a person with disability, in violation of 42 U.S.C. § 12182(b)(1)(E).

34. NCL's unlawful conduct and/or failures to act violated, and continue to violate, Plaintiffs' federal statutory rights, under Title III of the ADA, to be free from discrimination on the basis of disability, "in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to) or operates a place of public accommodation." 42 U.S.C. § 12182, *et. seq.*

35. Accordingly, Plaintiffs sustained damages as a direct result of NCL's actions, omissions, practices, policies, and procedures, described above, which violated the ADA.

VII. INJUNCTIVE RELIEF

36. Plaintiffs adopt by Paragraphs 1 through 35 as though fully set forth herein.

37. The Plaintiffs reasonably expect to use NCL's cruise programs, services, activities, facilities, privileges, advantages, and public accommodations in the future, thus there is a real threat of future injury if the Defendant's discriminatory policies, practices, and procedures do not immediately end. This threat is particularly great due to the fact that the NCL has cruise routes and travel programs that are appealing to the Plaintiffs. Accordingly, since the Plaintiffs intend to take another NCL cruise, it is necessary that NCL's discriminatory practices end immediately to prevent further harm to the Plaintiffs.

38. As a result of NCL's barriers, practices, policies, and procedures, Plaintiffs have suffered, and will continue to suffer irreparable injury due to the Defendant's denial of their statutory rights. There are reasonable grounds to believe that Defendants will continue to engage in the acts and practices prohibited by the ADA. Consequently, injunctive relief is necessary to insure that Defendant complies with the law.

39. Unless injunctive relief is granted, Plaintiffs will continue to suffer immediate and irreparable injury for which there is no adequate remedy at law.

40. In order to enforce their rights under the law, Plaintiffs have had to retain counsel and thus they are entitled to recover attorney's fees, costs, and expenses.

VIII. PRAYER FOR RELIEF

41. THEREFORE, Plaintiffs respectfully pray this Court grant the following relief:

1. Assume jurisdiction over the claims of this complaint;

2. Enter a declaratory judgment stating that NCL's practices, policies, and procedures have subjected Plaintiffs to discrimination in violation of Title III of the ADA;

3. Issue an order permanently enjoining NCL from violating Title III of the ADA, 42 U.S.C. § 12181, *et. seq.* by failing and refusing to remove architectural barriers when it is readily achievable to do so; failing to make modifications to policies and procedures to insure equal access to goods and services in the most integrated setting; or failing to remove discriminatory policies, procedures and eligibility criteria;

4. Award Plaintiffs reasonable attorney's fees and cost of suit, and;

5. Grant Plaintiffs such other and further relief as this Court may deem just and proper and equitable.

DATED:_____

Respectfully submitted,

By: BRUCKNER BURCH PLLC

_____

William H. Bruckner
TBA No. 03240500
Elaine B. Roberts
TBA No. 17004500
5847 San Felipe, Suite 3900
Houston, Texas 77057
(713) 877-8788 (Telephone No.)
(713) 877-8065 (Facsimile No.)
ATTORNEYS FOR DOUGLAS SPECTOR, ANA SPECTOR, JULIA HOLLENBECK, DAVID T. KILLOUGH AND RODGER PETERS, Individually and on Behalf of All Similarly Situated Persons

NORWEGIAN CRUISE LINE

7665 Corporate Center Drive
Miami, Florida 33126

Passenger Ticket Contract
Cruise Ticket
Do Not Separate Until Pier Check-in

BEST AVAILABLE COPY

VOID

VOID

IMPORTANT NOTICE
The Passenger's attention is specifically directed to the terms and conditions of this contract set forth below. These terms and conditions affect important legal rights and this passenger is advised to read them carefully

3/97 Ship's Registry: Bahamas

To Be Presented for Passage

NORWEGIAN CRUISE LINE

7665 Corporate Center Drive
Miami, Florida 33126

Passenger Ticket Contract
Passenger Copy

VOID

VOID

IMPORTANT NOTICE
The Passenger's attention is specifically directed to the terms and conditions of this contract set forth below. These terms and conditions affect important legal rights and the passenger is advised to read them carefully

3/97 Ship's Registry: Bahamas

Not Good for Passage

Passengers are advised to read the terms and conditions of the Passenger Ticket Contract set forth below. Acceptance of this Passenger Ticket Contract by Passenger shall constitute the agreement of Passenger to these Terms and Conditions.

Norwegian Cruise Line

Contract of Passage

Norwegian Cruise Line Limited d/b/a Norwegian Cruise Line

1. This passenger ticket contract (hereinafter "Contract") constitutes a contract of passage between the Carrier, Norwegian Cruise Line Limited d/b/a Norwegian Cruise Line (hereinafter referred to as "Carrier"), and the passenger or purchaser (whether or not named by or on his behalf). All the terms and provisions of all sides of this Contract, including all of the following matter printed below, are a part of this Contract to which the passenger and/or purchaser, both on his/her behalf and on behalf of any other person or persons, including children, for whom they accept to be purchased, acknowledge and agree to be bound thereby by accepting this Contract or transportation from the Carrier. The face limitation only the transportation be specified herein. All inland, ordinary freight, food, but does not include spirits, wine, beer, sodas or mineral waters. This Contract shall be the entire agreement between the parties and supersedes all representations or conditions contained in Carrier's advertisements, rates, brochures or other literature and all promises and agreements made or claimed to have been made to or with the passenger or anyone representing him by any party.
2. This ticket is valid only for the voyages specified on the front hereof and for the person or persons named on the front hereof as passenger or passengers and cannot be transferred without Carrier's written consent. The fare paid hereunder ("Passage Money") shall be considered fully earned at the time of payment, or if not previously paid, then at the time of embarkation. Carrier shall not be liable or make any refund to passenger in respect of lost tickets or in respect of tickets wholly or partly not used by a passenger, any amount or other governmental regulation to the contrary notwithstanding, the benefit of which Carrier or passenger hereby expressly waives. Carrier reserves the right, in its sole discretion, to cancel any scheduled call or any part for any reason at any time whether before, during or after sailing of the vessel, without prejudice to Carrier as to the passenger, and without liability to the passenger, for any loss, damage or delay whatsoever, however consequential.
3. Passenger is not allowed to bring on board the vessel without the previous written permission of the Carrier any intoxicating liquors or beverages, firearms, weapons of any kind, ammunition, explosive substances or any goods of a dangerous nature, nor dogs, including seeing eye dogs, cats, birds, or other animals of any kind and description whatsoever.
4. Carrier's responsibility shall never exceed the usual amounts of limitation of liability to which Carrier is entitled under applicable law. No undertaking, guaranty or warranty is given or shall be implied as to the seaworthiness, fitness, or condition of the vessel or any food, drink, medicine, or provisions supplied on board the vessel, or its ports of call. Carrier be liable for any statutory which occurs outside the passenger areas of the vessel or food, including, but not limited to, accidents occurring ashore, on tenders not owned by the vessel, on or resulting from equipment not a part of the vessel, or upon docks or piers. This exemption from liability here in contained shall extend to each of the employees, officers, agents, servants and representatives of the Carrier.
5. The passenger admits a full understanding of the nature and character of the vessel and assumes all risks of travel, transportation and handling of passengers and baggage. The passenger assumes the risk of, and agrees that the Carrier and the vessel shall not be liable for: (a) injury, death, or delay of or to the passenger; or (b) loss, damage or delay to the passenger's baggage, personal effects, or property arising from, caused by or on the judgments of the Carrier or Master rendered necessary or advisable by reason of any act of God or public enemies, arrest, restraints of princes, rulers of people, piracy, war, intervention, civil commotion, terrorist, sedition or threats, hijacking, bombing, threatened or actual rebellion, insurrection, civil strife, fire, explosion, collision, stranding, grounding, perils of the sea, illness, accident, strike or other labor, parts of navigation of any kind, lack or labor or passengering in remote, theft, quarantine to or from mandatory, bailment, or violent disorder even though existing at embarkation or commencement of voyages, flattery, detention or arrest, of any order, seizure of ship by legal process, strike, lockout or labor disturbance, whether or not such strike, lockout, or labor disturbance results from a dispute between the Carrier and his employees or between other persons, whether or not the fault of the Carrier or those because of any such reasons the Carrier's control, whether or not at any or whether such risk is the Passenger.

6. (a) Each passenger will be allowed 200 pounds of baggage free of charge. Any excess will be charged for at the current rate for baggage payable before embarkation, subject to the right of the Carrier to limit the amount of such excess that may be carried.
(b) Wherever the term "baggage" or luggage herein, it shall mean only suitcases, valises, satchels, bags, hangers or bundles and their contents consisting of such personal wearing apparel, articles of personal adornment, toilet articles and similar personal effects as are necessary and appropriate for the purposes of the cruise and all other such personal property of the passenger not in a container. No tools of trade, household goods, computers, musical instruments, radios, televisions, electronic equipment, personal recreational and/or sporting equipment, medications, perfumes, beverage products, liquors, fragile items, bullion, jewelry, precious stones, dentures, optical devices, including contact lenses, watches, money, documents, valuables of any description or such articles as are specified in 46 U.S. Code, Paragraph 181 shall be brought upon the vessel by passenger or contained in passenger's baggage, except under and subject to the terms of a special written contract entered into with the carrier before embarkation upon application of the passenger. The passenger hereby warrants that no such articles have been stowed on the vessel or are contained in any receptacle or container presented to him as baggage hereunder. Carrier cannot accept responsibility for and in no event shall be liable in any capacity for loss of damage to such articles as are set forth in this paragraph.
(c) It is stipulated that the aggregate value of the passenger's baggage under this ticket does not exceed $100.00 and any liability of the Carrier or the vessel for any cause whatsoever with respect to said baggage shall not exceed such sum unless the passenger shall in writing specify its true value and pay to the Carrier before embarkation 5% on the excess of such value, in which case the Carrier's liability shall be limited to the actual damage sustained up to, but not exceeding such specified value.
(d) All disclaimers and limitations of liability contained herein shall apply to all valuables stored or advertised for storage by Carrier, including valuables stored with the Carrier in safety deposit boxes or security envelopes. Carrier cannot accept responsibility for and in no event shall be liable for loss or damage or valuables left in cabins.
(e) Loss of or damage to baggage during loading or disembarking must be reported by the passenger to Carrier's personnel prior to departing the U.S. Customs area. Carrier shall not be responsible for any such loss or damage which is not so reported.
(f) No suits, including, without limitation, suits brought in rem and suits brought in personam shall be maintainable against the vessel or the Carrier upon any claim in connection with this Contract relating to baggage or any other property unless written notice of the claim, with full particulars, shall be delivered to the Carrier or its agent at its office at the port of sailing or at the port of termination within ten (10) days after termination of the voyage to which this Contract relates. In no event shall any suit for any cause against the Carrier with respect to baggage or property be maintainable unless such suit shall be commenced within two (2) months after termination of the voyage.
(g) Liability if any, for loss or damage to baggage occurring elsewhere than on board the vessel in connection with air, rail, motorcoach, ground transfers, porters, stevedores and/or hotels shall rest solely with the person or entity providing such services and passenger agrees that Carrier does not guarantee the performance of such services and shall not be liable in any respect or capacity for any such loss or damage.
7. If the vessel does not sail on or about the scheduled or advertised date for any reason whatsoever including fault of Carrier, Carrier shall have liberty to substitute any other vessel or means of transportation whether owned or operated by Carrier or not and to re-berth passengers thereon at, at Carrier's option, to refund the passage money paid.
8. Carrier shall have full liberty to proceed without pilots and tow and to assist vessels in all situations; to deviate from the direct or customary course for any purpose, including, without limitation, in the interest of passengers or of the vessel, or to save life or property; to put in at any unscheduled or unadvertised port; to cancel any scheduled call at any port for any reason and at any time; to omit, advance or delay landing at any scheduled or advertised port; to put back to port of embarkation or to any port previously visited if Carrier shall deem prudent; all without prior notice and without incurring any liability to the passenger on account thereof.
9. Carrier has an absolute right to transfer passenger and/or his baggage to other carriers, whether by vessel, rail or air, to or toward the ultimate destination. In the event such substituted passage is for the convenience of the Carrier, it shall be at Carrier's cost. Otherwise it shall be at the cost of the passenger.
10. In making any arrangements, the transportation of any passenger or his or her baggage by any carrier, connecting carrier or otherwise, or in making any arrangements for shore accommodations, victualling, amusement or entertainment for any passenger, or for any other service or facility whatsoever for any passenger otherwise than aboard Carrier's ships or such tenders aforesaid, it is understood and agreed that Carrier is acting solely in the capacity of agent for the party or parties who own, furnish or operate such services or facilities and that the same are provided subject to such terms, if any, appearing in the tickets, vouchers or notices of such party or parties. Nor does Carrier assume responsibility nor guarantee the performance of any such services or facility. Neither the Carrier or the vessel shall be liable for the act, neglect, default or omission of any party in respect to any events, matters or things other than aboard Carrier's ships or tenders.
11. In the case of quarantine, each passenger must bear all risks, losses and expenses caused thereby and will be charged for maintenance, payable day-by-day if maintained on board the vessel for such period of quarantine. Passenger assumes all risks and losses occasioned by delay or detention howsoever arising. Costs connected with embarkation or disembarkation of passengers and/or baggage and costs of transfer between vessel and shore must be borne by the passenger.
12. In the event of personal injury to the passenger whether resulting in death or otherwise from any cause whatsoever for which Carrier or the vessel may be liable, the damages recoverable by the passenger or his or her surviving spouse, executors, administrators, estate, legal representatives, heirs, and next of kin shall not exceed either the sum of $6,000.00 per occurrence or the amount recoverable by such passenger under any applicable limitation of liability statute which Carrier or the vessel may enforce in the applicable forum, whichever is lesser.
13. No suit including without limitation, suits brought in rem and suits brought in personam shall be maintained against the vessel or the Carrier for delay, detention, personal injury, illness or death of passenger unless written notice of the claim with full particulars be delivered to the Carrier or its agent at its office at the port of sailing or at the port of termination within one hundred eighty-five (185) days from the day when such delay, detention, personal injury, illness or death of the passenger occurred, and in no event shall any suit for any cause, including, without limitation, suits brought in rem and suits brought in personam be maintained against the vessel or the Carrier with respect to delay, detention, personal injury, illness or death be maintainable, unless suit shall be commenced within one (1) year from the day when the delay, detention, personal injury, illness or death of the passenger occurred, notwithstanding any provision of law of any state or country to the contrary.
14. Carrier reserves the right to refuse or revoke passage to persons who in Carrier's sole judgment may be refused admission into a port of landing or into the country of destination or for persons who may be suffering from a contagious disease or who for any other cause may endanger themselves or others or be or become obnoxious to others. Upon refunding the amount paid hereon or the prorata portion thereof, as the case may be, after deduction of expenses incurred by Carrier on account of such person or persons, Carrier shall be discharged from all further liability.
15. All berths are let on condition that passengers may be transferred from one cabin to another if required to accommodate other passengers. Such transfer will be made into cabins as similar as practicable. All unoccupied berths are to be let at intermediate ports.
16. In addition to all of the limitations, exemptions and limitations of liability provided by the Contract, Carrier and the vessel shall have the benefit of any statutory limitation of liability or exemption of liability available in the applicable forum, including but not limited to 46 U.S. Carr. Pg. Supp. 181 through 196, the International Convention Relating to Limitation of the Liability of Seagoing Ships 1957 (the Brussels Convention) and the Athens Convention Relating to the Carriage of Passengers and Their Luggage by Sea 1974 (the Athens Convention).
17. The price of passage hereunder has been fixed partly with reference to the liability assumed by Carrier as defined in the Contract, and no agreement, alteration or amendment enlarging any other or different liability shall be valid unless made in writing and signed by Carrier's authorized agent, or either at the port of embarkation.
18. Upon embarkation, the Passenger shall have in his possession and assumes all responsibility for obtaining all visas, travel and health documents required by any governmental authority and if he fails to do so Carrier shall have no further obligation to transport or to furnish immigration to the passenger. Passenger shall indemnify Carrier for all penalties, fines, charges, taxes and expenses imposed upon or incurred by Carrier due to passenger. Any taxes and stamps on tickets and taxes or fines on passenger, embarkation expenses, and all expenses of such a nature are to be paid by passenger. Carrier shall have the right to deny boarding and shall not be liable to refund passenger's fare if passenger is denied boarding due to lack of proper documents.
19. Passengers will not be liable to pay nor entitled to receive any general average contribution in respect to property taken with them on the vessel.
20. If the vessel carries a surgeon, physician, barber, hair dresser, masseuse, or any individual providing personal services or, if the vessel requests emergency medical transportation or emergency medical care for the passenger on his behalf, it is done solely for the convenience of the passenger and any such person or entity in dealing with the passenger is not and shall not be considered in any respect whatsoever as the employee, servant or agent of the Carrier, but shall be considered an independent contractor. Carrier shall not be liable for any act or omission of such person or entity or those under his or their orders or assisting them with respect to any diagnoses, medication, treatment, advice or care of any kind given to any passenger. Each such person or entity shall be entitled to make a proper charge for any services performed for or on behalf of the passenger and the care of such charge shall be the sole responsibility of the passenger and Carrier shall not be concerned in any way whatsoever in any such arrangement. Any charges incurred by passenger for medical reasons, including, but not limited to, physicians, surgeons, hospitals, medevacs, diagnostic facilities, air ambulance evacuation or ground ambulance, shall be the sole responsibility of passenger. Passenger hereby agrees to reimburse and indemnify Carrier for any funds advanced on account of any such charges.
21. Should any provision of this Contract be contrary to or invalid by virtue of the law of any jurisdiction in which this Contract is sought to be enforced, or for any other reason, said provision is deemed to be severed from the Contract and shall be of no effect, but all remaining provisions hereof shall remain in full force and effect.
22. The passenger shall be liable to and shall reimburse Carrier for all damage to the vessel and his furnishings and any equipment or property of the Carrier caused directly or indirectly, in whole or in part, by any act or omission of the passenger, whether wilful or negligent. The passenger shall further indemnify the owner and vessel and each and all of their agents and servants against all liability whatsoever which the Carrier or the vessel or such agents or servants may incur towards any person, company or government arising from any personal injury, death or damage to property caused directly or indirectly, in whole or in part, by any wilful or negligent act or omission on the part of the passenger. The passenger shall indemnify the Carrier and/or the vessel and/or the Master for any fines or penalties imposed on the vessel by governmental authorities for his failure to observe or comply with local requirements in respect of immigration, customs and excise taxes or any other governmental regulations whatsoever.
23. If this Contract is issued for, or in connection with, any passage at a reduced rate from the full regular fare ordinarily charged thereafter, and whether the reduction is in connection with an "Off Season" or "Low Season" sailing or at any reduced rate by whatsoever designation or nature, this contract is only available for use on the sailing for which issued unless, upon Carrier's determination that available space exists, the passenger pays to Carrier the difference between the reduced rate and the full regular fare. The passenger agrees that any travel agent utilized by passenger in connection with the purchase or issuance of this Ticket is passenger's agent and passenger shall remain liable to Carrier for the full tariff rate of passage.
24. Whenever the term "Carrier" is used herein, it shall mean and include the vessel, its tenders, owners, operators and charterers. The Master, agents, brokers, officers and crew of the vessel and of the Carrier shall have the benefit of all the terms and conditions of this Contract. The term "passenger" shall include the plural where appropriate and all persons engaging to and/or traveling under this Contract. The masculine includes the feminine.
25. Carrier reserves the right to increase fares without prior notice. In such event passenger has the option to accept and pay such increase, or to cancel passenger's reservation without penalty, not less than one (1) month prior to departure.
26. Carrier shall not be liable for any injuries or damages which occur while participating in athletic or recreational activities aboard the vessel or ashore at any port of call, including, but not limited to, passenger participation in snorkeling programs or passenger usage of any shuffle ball, gymnasium, jogging, swimming, diving, health club and sauna facilities. By utilizing said facilities, passenger agrees to assume all risks arising therefrom and does hereby fully release and discharge Carrier from any and all claims, demands, their agent, causes of action, present or future, whether the same be known, or unknown at present, resulting from or arising out of passenger's use or intended use of said facilities.
27. Any disability requiring special attention or treatment must be reported to Carrier when reservation is requested. A medical certificate certifying fitness for travel may be required of any passenger at Carrier's request. Any person having had surgery less than three (3) months prior to sailing must submit a letter from a qualified physician stating that he or she is fit to travel, and Carrier reserves the right to deny passage if the person, in the sole judgment of Carrier, may require some kind of special attention during the voyage. Pregnancy may be regarded as a physical disability and application for passage from an expectant mother must be accompanied by a medical certificate certifying her fitness for travel. Carrier reserves the right to refuse passage to women in advanced stages of pregnancy (third trimester of pregnancy). Handicapped persons are advised that certain international safety rules, ordinances and U.S. Coast Guard Regulations may cause difficulty for mobility-impaired persons or persons with advisory impaired sight and/or hearing. For reasons of passenger safety and well-being, Carrier may require such persons to be accompanied by and share the same cabin with, an adult who is not physically impaired as aforesaid. Passengers confined to wheelchairs must provide their own lightweight standard size wheelchair (23½ inches wide), as those wheelchairs which may be available on the vessel are for emergency use only. Carrier reserves the right to refuse or withdraw passage to anyone who fails to notify Carrier of a physical disability, or who is, in the sole judgment of Carrier, in such physical or mental condition so as to be unfit for travel, or who may require care, treatment and attention beyond that which Carrier can provide. Carrier reserves the right to refuse or deny participation in any activities or programs either aboard the vessel or ashore at any port of call which are sponsored or promoted by Carrier to any passenger who has, in the sole judgment of Carrier, past or present medical conditions that may present risks in such activity and programs, including, but not limited to, participation in Dive-In, Babies and Mini-Bike Programs on or off the vessel.
28. This Contract shall be governed in all respects by the laws of the State of Florida and the laws of the United States of America. It is hereby agreed that any and all claims, disputes or controversies whatsoever arising from or in connection with this Contract and the transportation furnished hereunder shall be commenced, tried and litigated, if at all, before a court of proper jurisdiction located in Dade County, Florida, U.S.A.

3/97